

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

|  |   |                             |
|--|---|-----------------------------|
| In the matter of the adoption of NEW   | ) | NOTICE OF PUBLIC HEARING ON |
| RULES I, II, and III, the amendment    | ) | PROPOSED ADOPTION,          |
| of ARM 12.6.1602 and 12.6.1610,        | ) | AMENDMENT, AND              |
| and the repeal of ARM 12.6.206,        | ) | REPEAL                      |
| 12.6.210, 12.6.215, 12.6.220,          | ) |                             |
| 12.6.225, 12.6.230, and 12.6.1601A     | ) |                             |
| pertaining to field trial regulations, | ) |                             |
| game bird dog training, and game       | ) |                             |
| bird farms                             | ) |                             |

TO: All Concerned Persons

1. On December 15, 2020, at 10:00 a.m., the Department of Fish, Wildlife and Parks (department) will hold a telephonic public hearing via ZOOM meeting platform to consider the proposed adoption, amendment, and repeal of the above-stated rules. Because there currently exists a state of emergency in Montana due to the public health crisis by the novel coronavirus, COVID-19, there will be no in-person hearing. Interested parties may access the remote conferencing in the following way:

(a) Dial by telephone, 1-646-558-8656  
Meeting ID: 988 8864 1013  
Password: 809105

The hearing will begin with a brief introduction by staff to explain the use of the telephonic platform. All participants will be muted except when it is their time to speak.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on December 4, 2020, to advise us of the nature of the accommodation that you need. Please contact Kaedy Gangstad, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; telephone (406) 444-4594; or e-mail [kgangstad@mt.gov](mailto:kgangstad@mt.gov).

3. The rules as proposed to be adopted provide as follows:

NEW RULE I FIELD TRIAL ON PUBLIC LAND (1) An application for a field trial on public land must include the following:

- (a) the number and species of captive-reared birds to be used for the trial, if captive-reared birds are being used; and
- (b) written consent from the controlling land managing agency.

AUTH: 87-3-604, MCA  
IMP: 87-3-603, MCA

NEW RULE II DISEASE PREVENTION (1) All captive-reared game birds used for dog training shall originate from National Poultry Improvement Plan (NPIP) sources.

AUTH: 87-3-604, 87-4-913, MCA  
IMP: 87-3-603, MCA

NEW RULE III PROOF OF PURCHASE OF CAPTIVE-REARED GAME BIRDS USED IN DOG TRAINING (1) A person using captive-reared game birds for which a commission-approved hunting season exists for dog training or a field trial shall retain proof of purchase that the birds were legally obtained from a licensed game bird farm as established in 87-4-903, MCA.

(2) Proof shall be in the form of a receipt or, alternatively, the birds may be banded with a leg band approved by the department. The receipt must state the following:

- (a) name of the species;
- (b) quantity of birds;
- (c) sex of birds;
- (d) name of the game bird farm; and
- (e) name of the purchaser.

AUTH: 87-3-604, 87-4-913, MCA  
IMP: 87-3-603, MCA

4. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

12.6.1602 PURCHASE AND SALE OF GAME BIRDS (1) No person may purchase live game birds from within the state except from the holder of a current game bird farm license. ~~Licensees may sell live game birds within the state only if the prospective purchaser is legally entitled to possess live game birds as evidenced by any of the following:~~

- ~~(a) a permit to possess captive-reared birds for noncommercial use;~~
- ~~(b) a permit to kill captive-reared birds in dog training;~~
- ~~(c) a permit to kill captive-reared birds in raptor training;~~
- ~~(d) a permit to release live ring-necked pheasants;~~
- ~~(e) a shooting preserve license;~~
- ~~(f) a zoo or menagerie permit;~~
- ~~(g) a permit to conduct a field trial;~~
- ~~(h) a game bird farm license; or~~
- ~~(i) an active Upland Game Bird Enhancement Program contract between the purchaser and the department for releasing ring-necked pheasants.~~

(2) Game bird farm operators shall provide proof of purchase to the purchaser in the form of a receipt or, alternatively, the birds may be banded with a leg band approved by the department. The receipt must state the following:

- (a) name of the species;
  - (b) quantity of birds;
  - (c) sex of birds;
  - (d) name of the game bird farm; and
  - (e) name of the purchaser.
- (2) remains the same but is renumbered (3).

AUTH: 87-4-913, MCA  
IMP: 87-4-902, 87-4-911 MCA

12.6.1610 NATIONAL POULTRY IMPROVEMENT PLAN (1) All captive-reared game birds sold in Montana shall originate from a National Poultry Improvement Plan (NPIP) certified flock.

~~(1)~~(2) Game bird farm licensees who maintain a breeding flock over the winter to hatch out offspring for sale and potential release in Montana must be ~~National Poultry Improvement Plan (NPIP)~~ certified.

(2) and (3) remain the same but are renumbered (3) and (4).

AUTH: 87-4-913, MCA  
IMP: 87-4-906, 87-4-908 MCA

5. The department proposes to repeal the following rules:

#### 12.6.206 DEFINITIONS

AUTH: 87-4-913, MCA  
IMP: 87-4-915, MCA

#### 12.6.210 FIELD TRIAL PERMITS

AUTH: 87-4-913, MCA  
IMP: 87-4-915, MCA

#### 12.6.215 PERMIT TO USE CAPTIVE-REARED BIRDS

AUTH: 87-4-902, 87-4-913, 87-4-915, MCA  
IMP: 87-4-915, MCA

#### 12.6.220 USE OF CAPTIVE-REARED BIRDS IN TRAINING

AUTH: 87-4-913, MCA  
IMP: 87-4-902, 87-4-915, MCA

12.6.225 PERMIT TO RELEASE RING-NECKED PHEASANTS FOR  
NONCOMMERCIAL PURPOSES

AUTH: 87-4-913, MCA

IMP: 87-4-501, 87-4-902, 87-4-915, MCA

12.6.230 PERMIT TO POSSESS CAPTIVE-REARED BIRDS FOR  
NONCOMMERCIAL PURPOSES

AUTH: 87-4-913, MCA

IMP: 87-4-902, 87-4-915, MCA

12.6.1601A DEFINITIONS

AUTH: 87-4-913, MCA

IMP: 87-4-915, MCA

REASON: The 2019 legislature enacted HB 29, which changed the legal requirements for certain activities relating to field trials and to the training of dogs using captive-reared upland game birds. In addition, HB 29 made some of FWP's existing administrative rules contrary to the new law, or confusing, or redundant. Upon passage of HB 29, FWP undertook a collaborative scoping process, including outreach to constituent groups, to better understand how training activities are conducted. This included input from representatives from most major sporting dog training organizations in Montana. Additionally, the department undertook an internal process review for dog training, field trials, and captive reared game bird farm management. These processes recognized unneeded and cumbersome permitting requirements as well as rules that needed to be changed due to the new statutes. These proposed rules represent the results of the collaborative process, agency process review, and necessary changes resulting from statute changes.

The department is proposing to amend and repeal rules which outline a permitting process that is not being used as a management tool and therefore is unnecessary. The department is also proposing to amend and repeal rules which attempt to regulate activity that appears not to be congruent with current rulemaking authority. The department is proposing to adopt new rules which would require retention of proof of purchase for birds, which would allow department staff to make sure birds being used for training can be differentiated from wild birds. Additionally, the department is proposing that birds be obtained from an NPIP certified flock, which would ensure that captive-reared birds used in the field are screened for disease.

6. Concerned persons may submit their data, views, or arguments orally at the telephonic hearing. Written data, views, or arguments may also be submitted to: Phil Kilbreath, Department of Fish, Wildlife and Parks Enforcement Division, P.O. Box 200701, Helena, Montana, 59620-0701; or e-mail [pkilbreath@mt.gov](mailto:pkilbreath@mt.gov), and must be received no later than December 18, 2020.

7. Kaedy Gangstad or another hearing officer appointed by the department has been designated to preside over and conduct the hearing.

8. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to: Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be emailed to [kgangstad@mt.gov](mailto:kgangstad@mt.gov).

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by phone on October 14, 2020.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption, amendment, and repeal of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Aimee Hawkaluk  
Aimee Hawkaluk  
Rule Reviewer

/s/ Martha Williams  
Martha Williams  
Director  
Department of Fish, Wildlife and Parks

Certified to the Secretary of State on November 10, 2020.